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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Local Exchange Carriers' Rates	)	CC Docket No. 94-97, Phase II
Terms, and Conditions for	)	
Expanded Interconnection	)	
Through Virtual Collocation for	)	
Special Access and Switched	)	
Transport	)	DOCKET FILE COPY ORIGINAL

OPPOSITION TO DIRECT CASE OF GST PACWEST TELECOM HAWAII, INC.

GST Pacwest Telecom Hawaii, Inc. ("Pacwest"), by its undersigned counsel, hereby submits its Opposition to the Direct Case filed in the above-captioned proceeding by GTE Service Corporation and its affiliated telephone operating companies ("GTE"). In its Direct Case, GTE fails to meet its burden of justifying its disparate rate structure for expanded interconnection service ("EIS") and DS1/DS3 service as required by the Commission's *Order Designating Issues For Investigation.*[1/] Accordingly, Pacwest respectfully petitions the Commission to: (i) reject those portions of GTE's virtual collocation tariff that are patently unreasonable; and (ii) prescribe reasonable rates.

Pacwest has a direct and immediate interest in this proceeding, and in particular, in ensuring that GTE's EIS rates,

[1/] *Order Designating Issues For Investigation*, DA 95-2001 (released September 19, 1995).

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terms, and conditions are reasonable. Pacwest is an authorized competitive provider of intrastate, interstate, and international telecommunications services in Hawaii,[2] and competes in this market with one of the GTE telephone operating companies -- GTE Hawaiian Telephone Company, Inc. Until recently, GTE had a monopoly on the provision of intrastate telecommunications services in Hawaii.[3] Recently, however, the Hawaii Public Utilities Commission ("HPUC") granted Pacwest authority to provide intrastate voice and data services.[4] The HPUC also recently granted other carriers authority to provide intrastate telecommunications services. In response to these competitive forces, GTE has: (1) lowered its rates for competitive intrastate and interstate offerings, such as DS1 and DS3 services;[5] (2) established individual case basis ("ICB") rates for high-volume customers;[6] (3) proposed to establish ICB rates for the

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[2] Pacwest's affiliates also provide domestic and international telecommunications services in markets outside of Hawaii.

[3] The only exception was Pacwest's limited authority to provide point-to-point data communication service over microwave facilities.

[4] This authority is not limited to the provision of service over microwave facilities, but includes fiber optic and other types of facilities.

[5] *See* GTOC Tariff Transmittal No. 963 (issued May 9, 1995).

[6] *See* GTOC Tariff Transmittals 972 (issued June 7, 1995), 975 (issued June 22, 1995), and 976 (issued June 26, 1995).

federal government;[7] and (4) maintained unreasonably high rates for noncompetitive interstate offerings, such as EIS.

I. GTE Fails To Justify It Unreasonably High EIS Rates Or Its Method Of Recovering The Costs Associated With The Provision Of EIS.

A. Overhead Loadings.

Upon its review of the local exchange carriers' ("LECs'") initial virtual interconnection tariffs, the Commission observed that:

> It appears that LECs tend to assign low overheads in markets where they face actual or potential competition from interconnectors and assign high overheads where they do not.[8]

This pricing practice allows GTE to shift common overhead costs from competitive service offerings to noncompetitive EIS offerings purchased by service providers, like Pacwest, and subsidize its competitive service offerings through inflated expanded interconnection rates borne by its competitors. This is precisely the course of action GTE is pursing in the Hawaii market. For example, GTE is: (1) offering significant volume and term discounts for DS1/DS3 services, but is not offering similar discounts for EIS; and (2) aggressively establishing and pursuing

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[7] GTOC Tariff Transmittal 988 (issued August 25, 1995).

[8] *Ameritech Operating Companies*, CC Docket No. 94-97, DA 94-1421 (released December 9, 1994), at ¶ 21.

ICB pricing. The combination of GTE offering its end user customers volume and term discounts and ICB pricing, while maintaining unreasonably discriminatory EIS rates for its competitor customers, is having a chilling effect on the development of competition in the Hawaii market.

Furthermore, GTE effectively prevents any detailed analysis of its ICB rates, including overhead loadings, by failing to identify its direct costs of providing service.[9] Instead, GTE seems to have buried its overhead loading into individual cost components rather than clearly identifying the overhead loading that applies to its ICB rates.

The Commission should not allow GTE to avoid critical analysis of its pricing practices. Pacwest urges the Commission to require GTE to establish comparable pricing structures for EIS and high-capacity services, including the offering of volume and term discounts for EIS. Pacwest also urges the Commission to limit GTE's authority to establish ICB offerings, absent unique customer-specific requirements. In such instances, the Commission should require a detailed showing to demonstrate true "uniqueness" of the proposed offerings, and if such offerings are

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[9] *See* GTOC Tariff Transmittal No. 976 (issued June 26, 1995) (establishing ICB rates for fiber transport for a self-healing 155.52 Mbps STM-1 service on the island of Oahu, Hawaii).

justified, GTE should be required to impose overhead loading factors comparable to those that apply to EIS service.

B. Installation and Engineering Costs.

GTE's method of recovering costs for EIS deviates from its method of recovering costs for comparable DS1/DS3 services. For example, while GTE's installation and engineering costs for EIS and DS1/DS3 services are recovered through a direct assignment methodology, GTE recovers EIS installation and engineering costs through a nonrecurring charge, but recovers DS1/DS3 installation and engineering costs partially through a nonrecurring charge and partially through a monthly recurring charge.[10] Similarly, GTE recovers design engineering costs for EIS through a nonrecurring charge, but recovers engineering costs for DS1/DS3 service partially through a nonrecurring charge and partially through a monthly recurring charge.[11] This disparate pricing practice effectively creates a barrier to the establishment of EIS arrangements by imposing significant front-end charges on collocators, whereas GTE's end-user customers of DS1/DS3 services are able to pay a portion of the installation and engineering charges on a monthly recurring basis.

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[10] GTE Direct Case at 5.

[11] *Id.* at 9.

C. Maintenance Costs.

GTE recovers maintenance costs through a monthly recurring charge for both EIS and DS1/DS3 services. However, for DS1/DS3 service, this charge is computed by applying an annual maintenance charge factor to the capital investment required to provide the service and bundling this cost into the DS1/DS3 monthly recurring charge, whereas for EIS service, the maintenance charge is computed by estimating the number of labor hours required each month to maintain the equipment. GTE imposes a separate maintenance rate element for EIS. While this disparate pricing practice precludes any meaningful comparison between GTE's maintenance charges, it provides yet another example of GTE's establishment of an unreasonably discriminatory rate structure for EIS.

C. Volume and Term Discounts.

Despite the fact that GTE provides volume and term discounts to its high capacity end user customers, and repeated requests by parties in this proceeding to likewise provide collocators volume and term discounts, GTE still refuses to establish a discounted rate structure for virtual collocation. The refusal to provide collocators with the same discounted rate structures available to GTE's end user customers unreasonably discriminates against collocators in violation of Section 202 of the Communications

Act, 47 U.S.C. § 202. In addition, it denies collocators the benefits of economies of scale associated with high capacity operations. It also unjustly enriches GTE by failing to reflect the administrative and marketing cost savings that stem from a collocator's willingness to make long-term service commitments. In order to remedy this discrimination, the Commission should prescribe volume and term discounted rate structures for virtual collocation that mirror the discounts that GTE provides for its high capacity services.

In its Direct Case, GTE fails to justify its disparate rate structures for EIS and DS1/DS3 services. Although EIS is a relatively new service offering, the components of this service offering (service provisioning, equipment installation, power, cable installation, cable support, equipment maintenance, etc.) are essentially the same as the components of DS1/DS3 service. GTE has not demonstrated any reasonable basis for the disparate and discriminatory pricing it has proposed for the two service offerings. The Commission should therefore require GTE to establish a comparable rate structure for EIS and DS1/DS3 service.

Conclusion

Pacwest urges the Commission to require GTE to establish a rate structure for EIS comparable to its DS1/DS3 services and ICB offerings.

Respectfully submitted,

GST Pacwest Telecom Hawaii, Inc.

By: Phyllis A. Whitten
Gene DeJordy
SWIDLER & BERLIN, Chartered
3000 K Street, N.W.-Suite 300
Washington, D.C. 20007
202-424-7500

Attorneys for **GST Pacwest Telecom Hawaii, Inc.**

Dated: November 9, 1995

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of November, 1995, an original and seven copies of the Opposition to Direct Case of GST Pacwest Telecom Hawaii, Inc., CC Docket no. 94-97, Phase II, were served by first-class mail, postage prepaid, or by hand as indicated by asterisk, on all parties on the attached service list.

Jeannine Allen

Regina Keeney, Chief*
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Geraldine Matise, Acting Chief*
Tariff Division
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

James D. Schlichting, Chief*
Policy & Program Planning Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, Room 544
Washington, D.C. 20554

International Transcription Services*
Federal Communications Commission
1919 M Street, N.W., Room 246
Washignton, D.C. 20554

Kathie Mikucki
ADC
4900 West 78th Street
Minneapolis, MN 55435

Piper Kent-Marshall
AT&T
4450 Rosewood Drive, Room 5460
Pleasanton, CA 94588-3050

Alfred Lipperini
NEC America, Inc.
14040 Park Center Road
Herndon, VA 22071

Dave Grannell
Reliance Com/Tec
Law Department
6065 Parkland Boulevard
Cleveland, OH 44124-6106

Dennis Kraft
Alcatel Network Systems, Inc.
1225 North Alma Road
Richardson, TX 75081

Bob Zuccaire
Fujitsu Network Transmission Systems, Inc.
2801 Telcom Parkway
Richardson, TX 75082

Paul Dejongh
Northern Telecom
4001 East Chapel Hill - Nelson Highway
Research Triangle Park, NC 27709

Don Gutzmer
Tellabs
4951 Indiana Avenue
Lisle, IL 60532

Brian Conboy
Wilkie Farr & Gallagher
Three Lafayette Centre
1155 21st Street, N.W., Suite 600
Washington, D.C. 20036

Don Sussman
Regulatory Analyst
MCI Telecommunications Corporation
1801 Pennsylvnaia Avenue, N.W.
Washington, D.C. 20006

J. Manning Lee
Teleport Communications Group, Inc.
Two Teleport Drive, Suite 300
Staten Island, NY 10311

Richard J. Metzger
1200 19th Street, N.W., Suite 607
Washington, D.C. 20036

Jay C. Keithley
Sprint
1850 M Street, N.W., Suite 1100
Washington, D.C. 20036-5807

Diane R. Stratfford
P.O. Box 11315
Kansas City, MO 64112

William D. Baskett III
Cincinnati Bell
2500 PNC Center
201 East Fifth Street
Cincinnnati, OH 45201-5715

Gail L. Polivy
GTE Service Corp.
1850 M Street, N.W., Suite 1200
Washington, D.C. 20036

Robert M. Lynch
Southwestern Bell Telephone Company
One Bell Center, Suite 3524
St. Louis, MO 63101

Michael S. Pabian
Ameritech
Room 4H82
2000 West Ameritech Center Drive
Hoffman Estates, IL 60196-1025

Kathryn Marie Kraus
U S West
1020 19th Street, N.W., Suite 700
Washington, D.C. 20036

Lawrence W. Katz
Bell Atlantic
1320 North Court House Road, 8th Floor
Arlington, VA 22201

Mr. Robert Sutherland
BellSouth Telecommunications, Inc.
4300 Southern Bell Center
675 West Peachtree Street, N.E.
Atlanta, GA 30375

149307.1